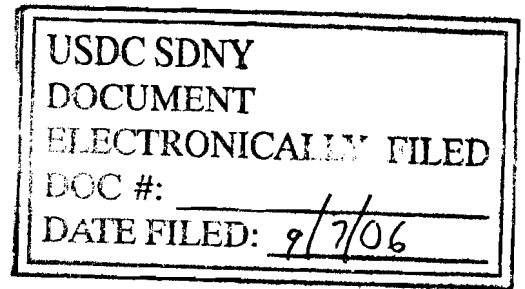


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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JUAN CANDELARIA,

Plaintiff,

-v-

No. 01 Civ. 8594 (LTS)(RLE)

ERICKSON, et al.,

Defendants.
-----X

ORDER

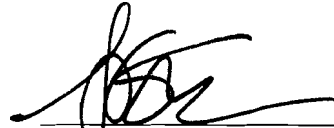
In its May 4, 2006, Memorandum Order in this matter, the Court reserved decision on Plaintiff's application to strike Defendant St. Agnes' Hospital's answer on spoliation grounds and directed St. Agnes' to provide affidavits addressing certain matters and to make additional discovery to Plaintiff. Since the issuance of that Order, the Court has received letters and affidavits from St. Agnes' dated July 11, 2006, July 17, 2006, and August 7, 2006, as well as a letter from Plaintiff dated July 17, 2006, renewing his request that the answer be stricken and seeking Rule 37 Sanctions.

Having thoroughly considered these submissions, the Court denies Plaintiff's application to strike St. Agnes' answer. St. Agnes' response indicate that the hospital was shut down as the result of a state authority's seizure of assets in connection with defaulted loans, rather than in any effort to avoid accountability on Plaintiff's claim. Plaintiff's application for discovery sanctions is also denied, as St. Agnes' response is generally compliant with the Court's direction. Defendant is, however, directed to supplement its response on the records storage issue with a sworn statement by a knowledgeable representative as to whether any records other than financial records are maintained outside of counsel's office and, if so, the nature, location and contents of such

records. Such supplemental affidavit shall be served and filed by September 18, 2006.

SO ORDERED.

Dated: New York, New York
September 5, 2006

A handwritten signature in black ink, appearing to read 'LSWAIN', is written over a horizontal line.

LAURA TAYLOR SWAIN
United States District Judge